

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

United States Courts
Southern District of Texas

July 25, 2017

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA

§§§§§§§§

VS.

CRIMINAL NO.: H 17-1231M

JORGE OVIDIO HERNANDEZ, and

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**DENIS AMAYA-CABALLERO, a/k/a
ARNOLD LOPEZ,**

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Defendants.

**THE UNITED STATES OF AMERICA'S MOTION TO DETAIN
AND DEPOSE A MATERIAL WITNESS**

COMES NOW the United States of America through Abe Martinez, Acting United States Attorney for the Southern District of Texas, and Adam Laurence Goldman, Assistant United States Attorney, and hereby moves to detain and depose a material witness pursuant to 18 U.S.C. § 3144 as follows:

1. On July 24, 2017, defendants Jorge Ovidio Hernandez and Denis Amaya-Caballero, a/k/a Arnold Lopez (“Defendants”) was encountered by the Harris County Sheriff’s deputies pursuant to two traffic stops. Amaya-Caballero was operating a 2007 Chevrolet Trailblazer, which was pulled over for a rear passenger not wearing a seat belt, and Hernandez was operating a Dodge Ram pickup, which was pulled over for an unsafe lane change. Inside the Trailblazer were Edgar Martinez, Elbin Bonilla, and Angel Quijada-Flores. All three individuals admitted to being illegal aliens from El Salvador (hereinafter UDAs). In addition, after being advised of his *Miranda* rights in Spanish and, Amaya-Caballero agreed to answer further questions, and stated that he went to a truck stop near San Antonio and met with a truck

driver who delivered six illegal aliens. He also stated that he was receiving \$200.00 for each immigrant he brought to Houston. He also stated that two adult males and one juvenile male entered his vehicle and two adult males and one adult female entered another vehicle. Later, he stated that he normally cooks and sells food in Southwest Houston near Dashwood Drive. One day one of his customers, whom he referred to as "CASA," the male who drives the Dodge pick-up referred to herein, offered to pay him to \$200 a person for picking up people and driving them back to Houston, Texas.

AMAYA-Caballero further explained earlier that day he and CASA drove to a Love's gas station to meet LA GUERA, who was driving an 18 wheeler. He described the 18 wheeler as having a red cab and white trailer. Once they arrived at the Love's, LA GUERA arrived and told them that she didn't like the location. They all left and drove west on I-10. AMAYA-Caballero said that they stopped near exit 595. Once stopped, six people exited the trailer. Three got into his vehicle and three got in a gray Dodge Ram with CASA.

Martinez, Bonilla, and Quijada-Flores were all transported to an Immigration and Customs Enforcement detention facility to be processed for removal and any necessary removal proceedings.

On the same day, Hernandez was operating a 2013 Dodge Ram Pickup that was pulled over for failing to signal a lane change. Inside the Ram Pickup were Vilma Rivera, Jose Zelaya-Mejia, and Heladio Santiago. The former two are illegal aliens from El Salvador and the latter is an illegal alien from Mexico. All three admitted to being illegally in the United States. Jose Zelaya-Mejia stated that he was from El Salvador and was in the United States illegally and \$6,000 to be taken out of El Salvador and to cross the border. Zelaya-Mejia stated that once he made it to

the United States, he was picked up by an unknown male and taken to a house in McAllen Texas. The same male that picked him up once he arrived into the United States put him in the back of an 18-wheeler with a male and female. Zelaya-Mejia indicated that this male and female were the other occupants of the Dodge Ram pickup. The three were taken to an unknown gas station. The driver of the 18-wheeler told them to get out and pointed to HERNANDEZ's grey Dodge Ram truck. The driver of the Dodge Ram (Hernandez) told Zelaya-Mejia to sit down in the truck. Mejia stated that once he got to a Houston location it would be another \$4,000 to complete the deal.

Vilma Rivera, who stated that she didn't know what the cost was to get her here because her family had taken care of it. She stated that she left El Salvador and entered the United States illegally from Reynosa, Mexico and was taken to a warehouse in McAllen, Texas. Rivera further stated that she was placed in the back of an 18-wheeler with Zelaya-Mejia and Santiago and brought to Hernandez. The driver of the 18-wheeler told her to get out and enter the Dodge Ram Pickup. Rivera stated that Hernandez asked here where she was from and she answered, "El Salvador". Rivera then entered the truck.

Zelaya-Mejia, Rivera, and Heladio Santiago were all transported to an Immigration and Customs Enforcement detention facility to be processed for removal and any necessary removal proceedings.

HSI identified Martinez as Edgar Ernesto Martinez-Hercules from El Salvador; Elbin Jonathan Bonilla-Fajardo from El Salvador; Quijada-Flores as Angel Balmore Quijada-Flores from EL Salvador; Rivera as Vilma Aracely Rivera-Guevara from El Salvador; Zelaya-Mejia as Jose Vidal Zelaya-Mejia from El Salvador; and Santiago as Heladio Santiago-Bautista from

Mexico.

During the interviews, Martinez-Hercules and Quijada-Flores identified Amaya-Caballero as the driver of the black truck they were transported in. Martinez-Hercules further stated that once he reached New York City, New York, his girlfriend was supposed to pay \$4,000. Quijada-Flores stated that once he reached Los Angeles, California, his aunt was supposed to pay \$4,000.

During the interviews, Zelaya-Mejia, Santiago-Bautista and Rivera-Guevara identified Hernandez as the driver of the truck they were transported in. Zelaya-Mejia further stated that his mother in El Salvador was supposed to pay \$4,000 once he arrived to Houston. Santiago-Bautista stated that he was supposed to pay between \$4,000 and \$5,000 once he arrived to New York and an additional amount to be determined by HERNANDEZ once they reached Houston, Texas. Rivera-Guevara was supposed to pay \$7,000 once she reached where her brother lives in Arkansas.

2. Subsequently, the Defendants was arrested for transporting illegal aliens in violation of Title 8, United States Code, Sections 1324(a)(1)(A)(ii) and (v) and (a)(1)(B)(i).

3. On July 24, 2016, all sightof the abovementioned individuals (the defendant and three UDAs) were detained by law enforcement agents and the three UDAs are currently being moved to the custody of the Department of Homeland Security, Immigration and Customs Enforcement, Enforcement and Removal Operations ("ERO"). Defendants are being moved to the custody of the United States Marshal.

4. In the absence of a court order to the contrary, UDAs Bonilla, Martinez-Hercules, Bautista, Quijada-Flores, Zelaya-Mejia, and Rivera Guevara, who will be in ERO custody, will be

removed without delay upon completion of administrative removal proceedings.

5. Based on their status as the smuggled UDAs, Bonilla, Martinez-Hercules, Bautista, Quijada-Flores, Zelaya-Mejia, and Rivera Guevara appear to be able to provide testimony that will be material to the prosecution of this case.

6. Therefore, the government requests that the following aliens be deemed material witnesses for the prosecution:

- A. Elbin Jonathan Bonilla-Fajardo, A209-311-164.
- B. Edgar Ernesto Martinez-Hercules, A209-311-163.
- C. Heladio Santiago Bautista, A200-895-766.
- D. Angel Balmore Quijada-Florez, A209-996-482.
- E. Jose Vidal Zelaya Mejia, A213-068-997.
- F. Vila Aracely Rivera Guevara, A216-074-505.

7. Because there is a substantial likelihood that the alien identified in Paragraph 6 of this motion will either be deported from the United States, or flee if released by ERO, and thus be unavailable to testify at trial, the government moves the Court to immediately designate him as "material witnesses" pursuant to 18 U.S.C. § 3144 and order the United States Marshal to detain them so that depositions may be taken.

8. The Government further requests that the Court appoint counsel to represent the aliens identified and listed in Paragraph 6 of this motion.

Date: July 25, 2017

Respectfully submitted,

ABE MARTINEZ
Acting United States Attorney, Southern District of Texas

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